IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.925 OF 2006

Akhtar A.K.Bape .. Petitioner
Versus
State of Maharashtra & Anr. .. Respondents

Mr.V.Y.Yadav i/b. S.V.Marwadi for petitioner
Mr.Harshad Palve for respondent No.3

CORAM : S.C.DHARMADHIKARI, J.
DATE : 12th October 2006.

P.C.

. Heard both sides.

2. Both sides do not dispute that the application Exh.B at page 12 is one filed under section 145(5) of Cr.P.C. and the plea raised therein is that the preliminary order passed be cancelled and further proceedings under section 145 in pursuance thereof be stayed. That application has been dismissed without assigning

any reasons by the impugned order.

3. This Court had isued notice to respondent No.3 and he is present through Mr.Palve.

4. In my view, instead of entertaining the pleas raised in the application under sub-section 5 of section 145 in this Court, it would be appropriate that the application is restored to file for being decided afresh and in accordance with law. The order passed on 13th April 2006 (Exh.C) is set aside. Application at page 12 filed on behalf of petitioner original applicant No.2 is restored to file for being decided afresh on merits and in accordance with law, after hearing all concerned. All contentions of both sides are expressly kept open.

(S.C.Dharmadhikari, J)